"The chancellor is master of his own writ, and though the claimant hold a legal title, is under no compulsion of law to issue the writ, so long as sound consideration of public morals and conscience forbid."

THE STATUTE OF LIMITATIONS IN MORTGAGE LAW. — In discussing mortgage law the two conflicting conceptions must be noted: first, that a mortgage gives a right in land distinct and separable from the debt; and second, that it gives a mere lien wholly incidental to, and dependent upon, the debt. In states adopting the first view the mortgagee acquires a legal title, and the questions raised by the statute of limitations are comparatively simple. As it is well recognized that he has two distinct rights, one on the debt and the other against the land, the fact that the first is barred does not affect the second; and it is general law that the mortgagee may foreclose at any time, even after the debt is unenforceable. *Thayer* v. *Mann*, 19 Pick. (Mass.) 535. Still this is not universal law even in "title" states. *Harris* v. *Mills*, 28 Ill. 44.

On the other hand in states where the mortgage is considered as purely incidental, more difficult questions arise. In strict logic, if the mortgage is a mere incident to the debt, it is clear that the extinguishment or outlawing of the one should extinguish the other. This doctrine, harsh as it is upon the mortgagee, has been adopted, either by statute or at common law, in a few states. See JONES, MORT. § 1207. In Kansas and Iowa this dependence of the mortgage upon the debt is carried so far that where they have both been outlawed and the latter is revived, the former is revived also. *Schmucker* v. *Sibert*, 18 Kan. 104; *Clinton County* v. *Cox*, 37 Ia. 570. Singularly enough this extreme view is not confined to "lien" states. *Schifferstein* v. *Allison*, 123 Ill. 662.

In the majority of jurisdictions, however, the exact logic of the situation is not completely recognized. The mortgagee is allowed to foreclose whether the debt is barred or not — a result theoretically wrong, but obviously just. Ohio has adopted a peculiar middle ground. Though the law there is that after default the mortgagee has, as between himself and the mortgagor, the legal title, and though he can foreclose after the debt is barred, still if the statutory period has run against the mortgage as a specialty he cannot foreclose. *Kerr* v. *Lydecker*, 51 Oh. St. 240. This rule is rendered the more remarkable by a recent holding that the mortgagee may bring ejectment even after the debt is barred and his right to foreclose is also gone. *Bradfield* v. *Hale*, 65 N. E. Rep. 1008. This position seems somewhat inconsistent. If the plaintiff is entitled to maintain ejectment it means that he has the right to possession, and as by the case cited above he has the legal title it seems that he should acquire the whole estate free and clear. But so long as foreclosure is denied the land must always remain — as the court acknowledges — subject to redemption, an unfortunate result of a compromise doctrine. It seems that in "title" states nothing but twenty years adverse possession by the mortgagor should bar the mortgagee's right to eject or to foreclose. In "lien" states the wiser course, and one which a majority of the courts have adopted, is to admit frankly that the strict theory fails, and to accomplish justice by granting the mortgagee a more than merely "incidental" right against the land.